

patent (see MPEP 804B). As such, Applicants kindly request that the application now be passed to allowance.

Further, Applicants respectfully traverse the double patenting rejection. Applicants note that the MPEP states that a reliable test for double patenting under 35 U.S.C. § 101 is whether or not a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent (in this situation, the “patent” is the ‘768 application under the provisional double patenting rejection). *See In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970). The MPEP further teaches the Examiner to ask whether there is there an embodiment of the invention that falls within the scope of one claim, but not the other.

In this case, there are several embodiments that fall within the scope of one claim, but not the other, as indicated by the chart below.

<u>Claim 1 of the Present Application</u>	<u>Claim 1 of the ‘768 Application</u>
Road test simulator comprising: four rollers	Road test simulator comprising: four rollers, each of which has an irregular surface cover, and
and four asynchronous motors, wherein each of the asynchronous motors drives a respective one of the rollers,	four asynchronous motors, each of which drives a respective one of the rollers;
four control units, wherein each of the	wherein the rollers each comprise a

rollers is assigned to a respective one of the control units, and	plurality of coating rows extending in axial direction along respective outer circumferences of the rollers.
a synchronization control, which is effected electronically in accordance with a ring structure such that a given one of the control units assigned to a given one of the rollers receives a synchronization pulse and an actual speed value for the given control unit and receives a further synchronization pulse and a further actual speed value for a further one of the control units assigned to a preceding one of the rollers.	

An example provided by the MPEP using the aforementioned tests can be similarly applied here. The MPEP provides an example whereby the invention defined by a claim reciting a compound having a "halogen" substituent is not identical to or substantively the same as a claim reciting the same compound except having a "chlorine" substituent in place of the halogen because "halogen" is broader than "chlorine." Like the MPEP example, claim 1 of the present application recites "four rollers" which is broader in scope than the "four rollers, each of which has an irregular surface cover" recited in claim 1 of the '768 application. As such, for example, rollers having a *regular* surface cover would not be covered by claim 1 of the '768 application but would be covered by claim 1 of the present application. Additionally, claim 1 of the '768 application includes the feature that "rollers each comprise a plurality of coating rows extending in axial direction along respective outer circumferences of the rollers." Again, such limitations are not placed on the rollers in the claims of the present application. Further, the Examiner is

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directed to the additional features and limitations which distinguish the claims of the present application from those of the '768 application.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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